

Law Clerk's Copy

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIADERRICK R. COOMBS  
PlaintiffFILED  
HARRISBURG-0247

(Judge Rambo, over objection)

Vs.

OCT 11 2001

MOTION TO VACATE ORDER UNDER  
FRCP RULES 59(e) AND 60(b)ROBERT W. MYERS  
DEFENDANTS

Per

D'ANDREA  
DEPUTY CLERK27  
copy

Plaintiff moves to vacate the Memorandum and order of Judge Rambo, as issued Sept. the Twenty Sixth, in the above captioned case, as void, and procured by fraud, as follows;

1. Judge Rambo, is mandated to recuse herself from this case. She has failed to do so, and has acted without jurisdiction. "Judge who is obligated to recuse, acts without jurisdiction." MOODY V. SIMMONS 858 F.2d 137(3rd Cir. 1988) She has refused to recuse herself, and attempted by fraudulently substituting discretionary word "should" in place of §455 recusal statutes mandatory language SHALL... recuse, to obtain a "waiver of her recusal from plaintiff. 28 U.S.C. §455(e) Prohibits her doing any such thing.

Accordingly her "Judgment and Order" are void, and must be vacated.

2. This "Judgment" properly cites, that my allegations are to be taken as true." And in facts cites cases, to this effect, which I adopt herein, confirming this. Judge Rambo, on the other hand, has, as is her style, attempted to re-write what I have clearly pled, and ignored my factual allegations. Specifically she stated FACT that I have in fact exhausted, any and all administrative remedies as are available to me.

She has capriciously disregarded this.

3.

## JUDGMENT VOID FOR FRAUD

On Sept. Twenty Third, 2001, three days before this judgment issued, plaintiff sent to this Hon. Court, a motion to strike defendants motion to dismiss, for fraud, and appended to such motion, the "final review orders" showing exhaustion of Administrative remedies, such as defendants fraudulently tried to claim, "did not exist" and plaintiff could not submit sooner, due to his indigency, and denial of free photocopies, for meaningful Ct. access by defendants. The Court has disregarded both my clear claim of indigency, and my evidence of thier fraud, as submitted Sept. 23rd, 2001. Defendants cannot lie, and then deny me access to courts, to expose their fraud, and then rec. judgment in thier favor, based on fraud. Defendants counsel, is in possession of some of the relevant grievances, and has a duty, to not misrepresent facts, and truth to this Court. He and defendants cannot prevail on the basis of misrepresentation, and obstruction of justice.

And this Court, cannot arbitrarily ignore this misconduct of defendants.

The Judgment in thier favor, procured by willful fraud, is VOID, and must be stricken.

4. This court, erroneously misconstrues, my honest answer to a simple question, which answer has no relevance to this matter. Question being, "Is there a grievance policy available in your institution.? Yes, or No.? I merely answered the question truthfully; It depends on whether they accept or reject a grievance. if rejected, it is not available.